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COUNSEL

The Observer, Inc.
Boston College
McElroy Commons Box L-132
Chestnut Hill, MA 02135

2005 MAY 17 A 9:15

MUR 5653

Mr. Jeff S. Jordan
Federal Election Commission
Supervisory Attorney
Complaints Examination & Legal Administration
Washington, DC 20463

May 11, 2005

Mr. Jordan-

This letter is in reference to MUR 5653. Thank you for bringing this matter to our attention. However, the enclosed complaint against The Observer, Inc. deals entirely with an alleged violation of section 501(c)3 of the internal revenue code, a statute that is outside the enforcement area of the Federal Election Commission.

Despite this, The Observer, Inc. desires to be in full compliance with all federal regulations and has accordingly attached a copy of a ruling by the Internal Revenue Service, which stipulates that the publishing activities in question do not violate the organization's non-profit tax status. Like "The Observer," the publication cited in the ruling is a separately incorporated 501(c)3 organization closely affiliated with a college and provides similar educational opportunities as the cited publication. Also similar to the publication cited, the issue of The Observer in question was distributed to its regular readership.

Please contact us if you require any additional information.

Sincerely,



John Kanca, President
The Observer, Inc.

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Internal Revenue Service

Department of the Treasury

Washington, DC 20224

Students Publishing Co., Inc.
of Northwestern University
1999 Sheridan Road
Evanston, IL 60208

Person to Contact:

Telephone Number:

Refer Reply to:

Date: MAY - 7 1997

Dear Sir or Madam:

This is in reference to a letter dated September 5, 1996, requesting a private letter ruling with respect to the federal income tax consequences of the activities described below.

The information provided indicates that you have been recognized as exempt from federal income tax as an organization described in section 501(c)(3) of the Code. You maintain a close association with Northwestern University (the "University"), which is also described in section 501(c)(3).

You provide a variety of educational and publishing services to the University community, including the publication of The Daily Northwestern, the primary student newspaper at the University, and the annual student handbook. You also provide technical support services to various University departments and organizations that produce literary magazines, resumes, brochures, newsletters, and calendars.

Integral to your publishing function is a program of hands-on training and development for students interested in journalism and the publishing field. Both the daily newspaper and the annual yearbook provide a vehicle for such training and development.

Participation as a staff member of The Daily Northwestern is on a voluntary basis. Your Board of Directors selects the Editor-in-Chief from among the student staff members. The Editor-in-Chief in turn selects an Editorial Board consisting of eight (8) to ten (10) students (the "Editors"). The entire process of publishing the newspaper: gathering the news, conducting interviews, analyzing the data, writing, and editing is done by the Editors and staff members. Editorial policy is determined by the Editors, while the Board of Directors controls the business side and financial direction of the paper.

The Daily Northwestern, from time to time, publishes coverage of political news and publishes editorial comments written by student staff. Such publications include endorsements of political candidates in partisan campus races. In a customary

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journalistic manner, the editorials take a position on pending or proposed legislation and candidates for campus political office. The newspaper has plans to report in a similar manner on off-campus political campaigns.

The following disclaimer language appears on the editorial page:

EDITORIALS reflect the majority opinion of The Daily's student editorial board and not the opinions of either Northwestern University or Students Publishing Company, Inc.

The newspapers containing political endorsements and editorials are not distributed to anyone other than The Daily Northwestern's normal readership, comprised primarily of students. The student staff members select which candidates to interview and the content of the articles. The Editors decide on any final publication matters. The Board is not a party to the declarations or promulgations of the political views of the students.

Section 501(a) of the Code provides for the exemption from federal income tax of organizations described in section 501(c)(3) of the Code.

Section 501(c)(3) of the Code provides, in part, for the exemption of organizations that are organized and operated exclusively for religious, charitable, or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation, (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

Section 1.501(c)(3)-1(c)(3)(i) of the regulations provides that an "action" organization described in section 1.501(c)(3)-1(c)(3)(iii) is not described in section 501(c)(3).

Section 1.501(c)(3)-1(c)(3)(iii) of the regulations provides that:

An organization is an "action" organization if it participates or intervenes, directly or indirectly, in any political campaign on behalf of or in opposition to any candidate for public office. The term "candidate for public office" means an individual who offers

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himself, or is proposed by others, as a contestant for an elective public office, whether such office be national, state, or local. Activities which constitute participation or intervention in a political campaign on behalf of or in opposition to a candidate include, but are not limited to, the publication or distribution of written or printed statements or the making of oral statements on behalf of or in opposition to such a candidate.

Rev. Rul. 72-513, 1972-2 C.B. 246 describes a university that provided office space and financial support for the publication of a student newspaper and made available several professors to serve as advisors to the staff. The newspaper provided training for students in various aspects of newspaper publication (including newspaper policy) and was distributed primarily to students of the university. Editorial policy was determined by the student editors and not by the university or the faculty advisors. A statement on the editorial page clearly indicated that the views expressed were those of the students and not of the university. The political activities of the student editors were not attributed to the university despite the university's provision of support to the newspaper. Therefore, the university was not participating in a political campaign within the meaning of section 501(c)(3) of the Code when the newspaper published students' editorials on political matters.

The processes of gathering news, doing research, analyzing data, writing, and editing material for the newspaper on any subject (including political and legislative matters) further the education of the University's students on the newspaper staff by improving and developing their knowledge and skills.

Student newspapers such as The Daily Northwestern have long been an established feature of university operation and have long been accepted as not only an integral part of the university life of students and faculty but also an extension of the formal instructional process itself. The expression of editorial opinion on political and legislative matters in the manner described is likewise a commonly accepted feature of legitimate journalism, and would accordingly appear to be an accepted feature of legitimate student newspapers.

The publication and dissemination of the editorial statements in question are acts and expressions of opinion by students occurring in the course of bona fide participation in academic programs and academic-related functions of the educational institution. Cf., Rev. Rul. 72-513.

Accordingly, we rule as follows:

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1. The activities of The Daily Northwestern, in editorializing and reporting on political news, further your educational purposes by improving and developing the knowledge and skills of the students on the newspaper staff; and,

2. In permitting The Daily Northwestern to editorialize and report on political news, you are not attempting to influence legislation, participate in political campaigns on behalf of candidates for public office, or otherwise engage in prohibited political campaign activity within the meaning of section 501(c)(3) of the Code so as to threaten your tax-exempt status.

We are informing the appropriate District Director of this ruling. You should keep this letter in your permanent records.

If you have any questions about this ruling, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Edward K. Karcher

Edward K. Karcher
Chief, Exempt Organizations
Technical Branch 3

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